

PATTI GOLDMAN (WSB #24426)
AMY WILLIAMS-DERRY (WSB #28711)
Earthjustice
705 Second Avenue, Suite 203
Seattle, WA 98104
(206) 343-7340
(206) 343-1526 [FAX]
pgoldman@earthjustice.org
awilliams-derry@earthjustice.org

THE HONORABLE JOHN C. COUGHENOUR

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

WASHINGTON TOXICS COALITION;) Civ. No. C04-1998C
NORTHWEST COALITION FOR)
ALTERNATIVES TO PESTICIDES;)
DEFENDERS OF WILDLIFE; NATURAL) PLAINTIFFS' RESPONSE TO MOTION TO
RESOURCES DEFENSE COUNCIL;) INTERVENE OF WASHINGTON FRIENDS
CENTER FOR BIOLOGICAL DIVERSITY;) OF FARMS AND FORESTS ET AL.
PACIFIC COAST FEDERATION OF)
FISHERMEN'S ASSOCIATIONS;)
INSTITUTE FOR FISHERIES RESOURCES;)
and HELPING OUR PENINSULA'S)
ENVIRONMENT,)

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF)
INTERIOR; UNITED STATES)
DEPARTMENT OF FISH AND WILDLIFE)
SERVICE; UNITED STATES)
DEPARTMENT OF COMMERCE; and)
NATIONAL MARINE FISHERIES)
SERVICE,)

Defendants,

PLAINTIFFS' RESPONSE TO MOTION TO INTERVENE
OF WASHINGTON FRIENDS OF FARMS AND
FORESTS ET. AL.. (C04-1998C) - 1 -

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and)
CROPLIFE AMERICA,)
)
Defendant-Intervenor.)
)

Plaintiffs Washington Toxics Coalition et al. authorized applicants-for-intervention Washington Friends of Farms and Forests et al. to represent that they do not oppose intervention consistent with Ninth Circuit precedent, provided that Washington Friends of Farms and Forests does not inject new issues or claims into the litigation. The motion accurately reflects plaintiffs' position in this regard.

Upon reviewing the motion to intervene, however, Washington Toxics asks the Court to condition Washington Friends of Farms and Forests' intervention on the avoidance of duplicative and burdensome briefing from the existing and proposed intervenors, whose interests are allied. Specifically, plaintiffs ask that all defendant-intervenors either: 1) file combined motions and briefs on the merits; or 2) file separate submissions that do not, in combination, exceed the applicable page limits. Such a condition would eliminate duplicative briefing and lessen the burdens on the plaintiffs and the Court in reviewing and addressing voluminous filings from the intervenors.

Washington Friends of Farms and Forests has failed to articulate any basis for allowing additional briefing from the intervenors. In their motion to intervene, Washington Friends of Farms and Forests have explained how the federal defendants do not adequately represent their interests. However, Washington Friends of Farms and Forests have made no comparable showing in connection with defendant-intervenor CropLife America, which has been granted intervention in this case.

Nor could Washington Friends of Farms and Forests make such a showing given the

1 nature of the issues and relief sought. Both CropLife and Washington Friends of Farms and
2 Forests support the challenged regulations because they seek to avoid restrictions on pesticides
3 that harm endangered fish and wildlife. Their interests are entirely aligned. The complaint seeks
4 a declaration that the counterpart regulations are invalid and an order setting the regulations
5 aside. This relief would affect pesticide makers and users in the same manner. Accordingly,
6 neither set of intervenors has unique interests to protect in connection with the merits or the
7 requested relief, and the applicable page limits should apply to all intervenors collectively.

8 In sum, plaintiffs do not oppose Washington Friends of Farms and Forests' intervention,
9 but they ask the Court to impose conditions on intervention to prevent duplicative briefing.
10 Either the Court should require all defendant-intervenors to file joint motions and briefs on the
11 merits, or the Court should make pertinent page limits applicable to the combined submissions
12 from all defendant-intervenors.

13 Respectfully submitted this 7th day of January, 2005.

15 /s/Patti Goldman
16 PATTI GOLDMAN (WSB #24426)
17 AMY WILLIAMS-DERRY (WSB #28711)
18 Earthjustice
19 705 Second Avenue, Suite 203
20 Seattle, WA 98104
21 (206) 343-7340
22 (206) 343-1526 [FAX]
23 pgoldman@earthjustice.org
24 awilliams-derry@earthjustice.org

25 *Attorneys for Plaintiffs*

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of Washington. I am over 18 years of age and not a party to this action. My business address is 705 Second Avenue, Suite 203, Seattle, Washington 98104.

On January 7, 2005, I served a true and correct copy of the following documents on the parties listed below:

PLAINTIFFS' RESPONSE TO MOTION TO INTERVENE OF WASHINGTON FRIENDS OF FARMS AND FORESTS ET. AL.

James A Maysonett
US Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
Benjamin Franklin Station PO Box 7369
Washington DC 20044-7369
Attorneys for Federal Defendants

- ☐ via facsimile
☐ via overnight courier
☐ via first-class U.S. mail
☐ via hand delivery
☒ via electronic service by Clerk

J. Michael Klise
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2595
Phone: 202-624-2629
Fax No. 202-628-5116
E-mail: jmklise@crowell.com

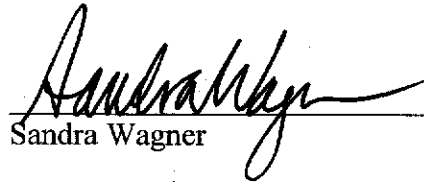
- ☐ via facsimile
☐ via overnight courier
☐ via first-class U.S. mail
☐ via hand delivery
☒ via electronic service by Clerk

J. J. Leary, Jr.
Leary Franke Droppert
1500 - 4th Avenue, Suite 600
Seattle, WA 98101
Phone: 206-343-8835
Fax No. 206-343-8895
Attorneys for Defendant-Intervenor

- ☐ via facsimile
☐ via overnight courier
☐ via first-class U.S. mail
☐ via hand delivery
☒ via electronic service by Clerk

1 I, Sandra Wagner, declare under penalty of perjury that the foregoing is true and correct.

2 Executed this 7th day January, 2005, at Seattle, Washington.

3
4 
5 Sandra Wagner